

REMARKS

The Office Action of February 27, 2003 has been reviewed and the Examiner's comments carefully considered. The Examiner is thanked for removing the objections to the claim language and rejections of certain claims under 35 U.S.C. § 112, second paragraph, as set forth in the first Office Action in this case. Claims 24-46 are pending in this application.

All of pending claims 24-46 stand rejected. Specifically, claims 24, 25, 29-41 and 46 stand rejected under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Patent No. 6,477,801 to O'dwyer. Further, claims 26-28 stand rejected under 35 U.S.C. § 103(a) for obviousness over the O'dwyer patent in view of WO-A 98 55 817 (hereinafter "D1") and in further view of U.S. Patent No. 5,062,232 to Eppler. Finally, claims 42-45 stand rejected under 35 U.S.C. § 103(a) as being obvious over the O'dwyer patent in view of D1, and in further view of U.S. Patent No. 4,907,022 to Myers. In view of the following remarks, Applicant respectfully requests reconsideration of these rejections.

Independent claim 24 of the present application is directed to a firearm device. The firearm device includes a firearm and a safety means for impeding an unauthorized person from firing the firearm. Further, the firearm device includes an information storage means for recording and storing at least one aspect of a group consisting of an image in the direction in which a shot is fired and a sound at about the time when a shot is fired.

Independent claim 46 of the present application is also directed to a firearm device. The firearm device includes a firearm and a safety means that comprises an information carrier and a gathering means defining an information carrier means separable from the firearm

device whereon information can be recorded, and an information gathering means for gathering information from the person to use the firearm. The safety means further comprises processing means for processing information received from the information carrier and gathering means, and allowing firing of the firearm to take place only if the information so received complies with certain requirements, in recording at least one aspect of a group consisting of an image in the direction in which a shot is fired, and a sound at about the time when a shot is fired.

The newly cited O'dwyer patent is directed to firearms security. Specifically, the apparatus and system of the O'dwyer patent provide security measures for electronically operated munitions and firearms, such as pistols and the like. Electronic controls may be armed or disarmed electronically, and include encoding means which, in communication with electronic controls, enable firing of the secured weapon upon receiving an authorization code. Such a code may be unique to an individual, provided in the form of a swipe card or biometric data that retains a lifelong distinctive identity of the authorized person.

The Examiner refers Applicant to col. 2, lines 31-46 of the O'dwyer patent for its alleged teaching of the use of an information storage means to record and store an image in the direction in which a shot is fired and/or a sound at about the time when the shot is fired. While the apparatus of the O'dwyer patent includes lenses, transducers, contact patches, and position electronics, the system of the O'dwyer patent neither teaches nor suggests obtaining an image in the direction in which the shot is fired, nor recording and storing a sound at about the time when the shot is fired. Instead, the GPS system of the O'dwyer patent is simply able to determine the place and direction of firing. This does not assist in determining at what is being fired.

The D1 reference is the international application that underlies the O'dwyer patent. Therefore, D1 is also directed to security measures for electronically operated munitions and firearms, such as pistols and the like. It appears that the Examiner is using D1 for its alleged teaching of firearms that include multiple barrels 14, 15, where the barrels are pre-loaded with projectiles and charges. It further appears that the Examiner is using D1 for its teaching of a timepiece for recording time, specifically citing page 3, lines 27-32 of D1. Applicant respectfully submits that this citation does not evidence a timepiece, but is instead talking about the real-time data that can be recorded by the electronic magazine of the invention of D1. The recordation of real-time data is not the same as recording time.

The Myers patent is directed to a photographic gun. Specifically, the photographic gun of the Myers patent includes a camera that is pivotally mounted in the area of the projectile insertion and injecting mechanism of the gun. The camera is actuated by the trigger action of the weapon for taking pictures through the barrel of the weapon.

The Eppler patent is directed to a safety device for firearms. The safety device in the Eppler patent includes a trigger-interrupting means that is connected to the trigger mechanism of the firearm. A code-generating means is worn on a glove of the user, and generates a signal that is detected by the detection means on the weapon. The detection means serves to disengage the trigger-interrupting means to permit the weapon to selectively be fired by an authorized user.

For the foregoing reasons, independent claims 24 and 46 are not anticipated by the O'dwyer patent. The O'dwyer patent does not teach or suggest a firearm device that includes

an information storage means for recording and storing an image in the direction in which a shot is fired and/or a sound at about the time when a shot is fired, as specifically set forth in independent claims 24 and 46 of the present application. Additionally, there is no hint or suggestion in any of the references cited by the Examiner to combine these references in a manner in which to have rendered the invention, as claimed, obvious. Therefore, reconsideration of the rejections of independent claims 24 and 46 is respectfully requested.

Claims 25-45 depend either directly or indirectly from and add further limitations to independent claim 24 and are believed to be allowable for the reasons hereinabove in connection with independent claim 24. Furthermore, none of D1, the Eppler patent, or the Myers patent adds to or cures the deficiencies of the O'dwyer patent in certain respects. For example, it appears that the Examiner suggests that the O'dwyer patent teaches a "storing means storing a unique code relative to each projectile fired in the firearm including a laser system." Applicant respectfully disagrees. The O'dwyer patent does not teach a unique code with respect to the projectile, instead discussing a code or security feature with respect to the user. The O'dwyer patent also does not teach the information gathering means on an operatively rear surface of a grip member, instead discussing electronic controls supported in an insert that is removable from the grip. Therefore, for all of the above reasons, reconsideration of the rejections of claims 25-45 is respectfully requested.

It is noted that the Examiner has used D1, the Eppler patent, and the Myers patent to cure the deficiencies of the O'dwyer patent in certain respects. As set forth in MPEP § 2143.03, to establish *prima facie* obviousness of a claimed invention, all the claim

limitations must be taught or suggested by the prior art. Further, the Examiner cannot use the claims as a blueprint for locating separate claim elements in separate prior art references without considering the teachings of the prior art as a whole and without considering the complete teachings of the separate references. It is respectfully submitted that the Myers patent is directed to a simulated weapon that shoots pictures of game in place of firing projectiles. The Myers patent does not teach or suggest an information storage means as disclosed in the presently-claimed invention, and the O'dwyer patent does not teach the recordation of an image in the direction of firing or a sound at about the time of firing of the firearm. The Eppler patent, D1, and the Myers patent do not cure the deficiencies of the O'dwyer patent, as discussed in detail hereinabove. Accordingly, Applicant respectfully requests reconsideration of these rejections. Further, in the absence of some "clear and particular" motivation to combine the teachings of the cited prior art, the objection is improper. Winner Int'l Royalty Corp. v. Wang, 202 F.3d 1340, 1348-49 (Fed. Cir. 2000).

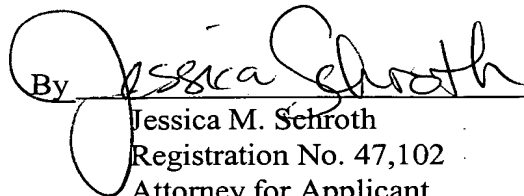
Applicant specifically reserves the right to file a Declaration under 37 C.F.R. § 1.131, which establishes an earlier date of invention to effectively remove the O'dwyer patent as a Section 102(e) reference. Such a Declaration was not submitted at this time because the limitations of claims 24-46 were not anticipated by or made obvious in view of the O'dwyer patent, as discussed hereinabove. For all of the foregoing reasons, Applicant believes that claims 24-46 are patentable over the cited prior art and in condition for allowance.

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Reconsideration of the rejections and allowance of all pending claims 24-46 are respectfully requested.

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